



4 August 2016

Mr Greg Tanzer  
ASIC Commissioner  
PO Box 9827  
MELBOURNE VIC 3001

Dear Mr Tanzer,

**RE: BANKING IN AUSTRALIA: PART 10**

*Banking in Australia: Unregulated and Unprotected* provides opportunities for ASIC, ACCC and Treasury to act decisively and protect individuals and small businesses harmed by bankers regulating themselves.

**Banking Code 1993**

In 1991, the Martin Committee recommended to Parliament that there should be an Australian Banking Code ("the Code"). The hard-fought 1993 Banking Code required banks to document practices that would resolve disputes without under-resourced customers using the courts.

The 1993 Code required banks to:

- (i) **describe standards of good banking practice and service;**
- (ii) **promote disclosure of information relevant and useful to customers;**
- (iii) **promote informed and effective relationships between banks and their customers; and**
- (iv) **require banks to have procedures for resolution of disputes between banks and customers.**

In 2003, the commitments made by the banks were voided.

**Banking Code 2004**

In 2004, when the government transferred regulation to the banks, the 1993 commitments were voided. The banks' Chief Executives ensured that the regulators, paid by them, could not name them for breaching the Code.

The conduct of Australian banks prior to 2014 might be described as acting "dishonestly using their position or power to gain an advantage, especially for money".<sup>1</sup> This view was outlined in Counter Corruption Analysts submission 108 to Parliament in March 2016 (attached).

### **Counter Corruption Analysts submission**

Submission 108 outlines mechanisms available to government to deal with systems failures by self-regulated banks:

1. Introducing independent regulators with powers to impose civil and criminal penalties for corporate crime, such as breaching corporate law
2. Introducing legislation, such as the *Wilkie Bill* (2012), and
3. Instructing a policy whereby APRA mandates the Banking Code.

Counter Corruption Analysts' submission 108 suggests the government take responsibility for inaction by its regulators and deceitful practices by banks, which surfaced in 2004.

Bank Victims will publish *Banking in Australia: Unregulated and Unprotected Part 11* during the next week.

Yours sincerely



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Copy: Greg Medcraft, Chair, Australian Securities & Investment Commission

Enc: Submission 108 Senate Economics Committee Inquiry into criminal, civil and administrative penalties for white-collar crime

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<sup>1</sup> Cambridge Dictionary definition of corrupt: "dishonestly using your position or power to gain an advantage, especially for money".